

March 1, 2005

Representative Edward Gaffney, Chairman
Michigan House of Representatives -Health Policy Committee

Hearing on HB4325,

Opposition to HB4325

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My name is John Palazzo. I am a licensed PT with doctoral training and practicing in Michigan since 1974. I have held board certification as an Electrophysiologic Clinical Specialist through the ABPTS since 1985 when the American Physical Therapy Association first offered it. I am one of the rare PTs grandfathered to practice EMG under the proposed HB4325 but in a restricted manner. Therefore, I would like to share the good points and the basic criticisms seen from my nearly 30 years of experience HB4325 does have merit however it will require change to make it a good law and good public policy.

I. Motivation behind HB4325

A. Limit EMG/NCV test abuse and over-utilization by unqualified Physicians.

Eighty percent (80%) of all EMG/NCV services are performed or supervised by a physician and billed by a physician or health care facility.¹ Presently any Michigan physician can legally perform and delegate EMG/NCV tests. Physician training varies from no EDX training, to physicians with multiple board certifications.

B. Limit delegation and interpretation of NCV tests by unqualified physicians.

Unqualified physicians performing or delegating EMG tests to unqualified personnel is a growing national trend.² Physicians often delegate the performance of these tests to assistants. Tests done by a tech is billed and is paid the same as if a physician had personally administered the test. Lucrative turnkey EDX start up packages, marketed to physician offices, designed to improve profitability of physician practices are becoming more obvious in the health care market.³

II. Credentials

SEC17018 (1) (4) AN INDIVIDUAL WHO IS LICENSED AS A<MEDICAL OR OSTEOPATHIC PHYSICIAN> <PODIATRIST> AND HAS SUCCESSFULLY COMPLETED ADDITIONAL TRAINING IN THE PERFORMANCE AND INTERPRETATION OF ELECTRODIAGNOSTIC STUDIES THAT IS SATISFACTORY TO THE BOARD SHALL PERFORM NEEDLE ELECTROMYOGRAPHY OR INTERPRET NERVE CONDUCTION TESTS

This Physician EMG/NCV training requirement is a good concept. The vague wording for physician training and board approval is a major shortfall. The term "Additional training" and "satisfactory to the board" are not clear or adequately defined and are open to gross misinterpretation. What does additional training mean? Does "board" refer to any board granting advanced credentials? In 2004 there were 24 medical specialty boards that offer 39 board certifications and 92 sub specialty board certifications. Numerous boards offer credentials that include muscle and nerve evaluations. If "board" refers to the licensing board will this bill set a new precedent for state licensing boards to determine advanced training requirements for the specific procedures shared by many of the 131 different physician board certified specialists? Podiatrists have no known national board

¹ Dillingham et al. Muscle and Nerve, Feb 2004

² Mobile EDX -Health Care Fraud. Positive waves AAEM, Vol IX, No2, June 2001

³ Pain Care Holdings, Inc. Orlando FL (PR2-xxxx), www.paincareholdings.com

Advanced Mobile Services, Ferndale MI

Empire Medical Training, www.empiremedicaltraining.com

ALN Medical Management, www.alnmedical.com

certification in EMG/NCV and they are not eligible for the medical /osteopathic/PT type board credentials. How does this group qualify for inclusion under HB4325 without a track record in EMG/NCV or a known credentialing body?

III. Restrictions of the Physical Therapist

Board Certification. In contrast to the vague requirements for physician training, the credentialing provisions for the PT are sharply defined in SEC.17018 (3) ECS through the APTA /ABPTS. However, HB4325 fails to recognize several valid equivalent forms of advanced EMG credentialing available to the PT through the military, Post graduate institutions and various states like CA, PA, FL and TX.
Recommendation: All forms of advanced level competence in EMG /NCV should be recognized as determined by the PT board of licensure.

Five (5) Year Requirement Under HB4325 only the Board certified PT EMG specialists who have practiced in Michigan for the past 5 years qualify. This limitation is unfair, arbitrary and unnecessary. If the PT attains the prescribed and highest nationally recognized credential in order to assure safe and competent practice then what consumer benefit is achieved by imposing the additional requirement of 5 years of practice in Michigan? None...as this was intentionally crafted to extinguish all PTs from the Michigan EMG landscape. This will permanently ban new PTs from coming to practice in Michigan and force new Michigan graduate to relocate out of state.

Recommendation: Eliminate this requirement.

Interpretation by a Physician Another unreasonable restriction is found in Sec 17018 (3) a physical therapist ...may perform electrodiagnostic studies that are to be interpreted by a physician.

This is an unnecessary and confusing statement as physical therapists perform EMG/NCV tests on patients referred by physicians. The PT labels the final test findings in various ways including the terms, impression, interpretation, conclusion or results. This label is formulated as part of the professional component of the test and is also contained in a report to the referring physician. The phrase " interpreted by a physician" is extremely misleading and contrary the standards of practice and training of a board certified PT specialist. Providers and payors as requiring another level of physician service performed by a third party physician would easily misunderstand this clause.

Recommendation: An appropriate substitute to address the physician role would be:

"A physical therapist ...may perform electrodiagnostic studies that are *referred by* a physician."

Either of the following revisions to SEC 17018 would be acceptable:

SEC17018 AND SEC17518 (3) A PHYSICAL THERAPIST WHO IS LICENSED UNDER THIS ARTICLE AND CERTIFIED BY THE AMERICAN BOARD OF PHYSICAL THERAPY SPECIALTIES AS AN ELECTROPHYSIOLOGIC CLINICAL SPECIALIST ~~ON THE EFFECTIVE DATE OF THIS SECTION~~ MAY PERFORM ELECTRODIAGNOSTIC STUDIES ~~THAT ARE TO BE INTERPRETED BY A PHYSICIAN IF HE OR SHE HAS BEEN PERFORMING ELECTRODIAGNOSTIC STUDIES IN THIS STATE ON A CONSISTENT BASIS WITHIN THE 4 YEARS IMMEDIATELY PRECEDING THE EFFECTIVE DATE OF THIS SECTION.~~

OR

(3) A PHYSICAL THERAPIST WHO IS LICENSED UNDER THIS ARTICLE AND HAS SUCCESSFULLY COMPLETED ADDITIONAL TRAINING IN THE PERFORMANCE AND INTERPRETATION OF ELECTRODIAGNOSTIC STUDIES THAT IS SATISFACTORY TO HIS OR HER RESPECTIVE BOARD MAY CONDUCT ELECTRODIAGNOSTIC STUDIES.

I respectfully submit that with the appropriate revisions made this bill would be of merit to the citizens of Michigan. Without the changes the bill should be opposed.